

Minutes of the Planning Commission meeting held on Thursday, September 17, 2009, at 6:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Jeff Evans, Chair
 Jim Harland, Vice-Chair
 Tim Taylor
 Ray Black
 Karen Daniels
 Sheri Van Bibber
 Tim Tingey, Community & Economic Development Director
 Chad Wilkinson, Community Development Planner
 Citizens

Excused: Kurtis Aoki

The Staff Review meeting was held from 6:00 to 6:30 p.m. The Planning Commission members briefly reviewed the applications on the agenda. An audio recording of this is available at the Murray City Community and Economic Development Department.

Mr. Evans opened the meeting and welcomed those present.

APPROVAL OF MINUTES

Sheri Van Bibber made a motion to approve the minutes from September 3, 2009. Seconded by Tim Taylor.

A voice vote was made. The minutes were approved unanimously, 6-0.

CONFLICT OF INTEREST

There were no conflicts of interest noted regarding this agenda.

APPROVAL OF FINDINGS OF FACT

Jim Harland made a motion to approve the Findings of Fact for New Concept Furniture and Ms. Joy's Preschool. Seconded by Sheri Van Bibber.

A voice vote was made. The Findings of Fact were approved unanimously, 6-0.

SANDBOX THEATER COMPANY—5803 South State Street, Project 09-73

Tim Hansen was the applicant present to represent this request. Chad Wilkinson reviewed the location and request for a Conditional Use Permit for a community theater. Mr. Wilkinson stated that this applicant has met with staff and provided some additional evidence that will likely resolve staff's concerns related to the application. Mr. Wilkinson stated that staff is requesting some extra time to review the additional information and look at the site to determine conditions of approval. Staff would like to provide a revised recommendation to the Planning Commission at the next meeting, which is scheduled for October 1, 2009.

Jeff Evans asked Mr. Wilkinson to explain to the audience the need for a continuance and which items are of concern. Mr. Wilkinson stated that the main concern was limited parking in relation to the proposed uses of the site as specified by the Code. Mr. Wilkinson stated that staff had originally recommended denial, but is now working towards possible resolution with the applicant.

Tim Hansen, 5404 West Jeremiah, Kearns, is on the Board of Trustees for the Sandbox Theater. Jeff Evans asked Mr. Hansen if he was in agreement with continuing this agenda item to the next Planning Commission meeting. Mr. Hansen stated that he is in agreement.

Karen Daniels made a motion to continue this agenda item for the Sandbox Theater Company, 5803 South State Street, to the next Planning Commission meeting scheduled for October 1, 2009 at 6:30 p.m. Seconded by Sheri Van Bibber.

Call vote recorded by Tim Tingey.

A__ Karen Daniels
A__ Sheri Van Bibber
A__ Jim Harland
A__ Jeff Evans
A__ Tim Taylor
A__ Ray Black

Motion passed, 6-0.

LEGACY RETIREMENT INN-404 East 5600 South, Project #09-72

Patricia Johnson was the applicant present to represent this request. Tim Tingey reviewed the location and request for a Conditional Use Permit Amendment to revise the parking location at Legacy Retirement Inn. Mr. Tingey stated that this property is located in the R-M-15 zone, which is residential zoning and adjacent to other residential zones. In 2007 a Conditional Use Permit was granted at this location to convert the building from a retirement facility to apartment use. Conditions placed at that time stated that parking needed to be accommodated as much as possible in the northwest portion of the property, and to work with planning staff on additional parking requirements. The applicant is requesting a revision to that condition, stating that they have concerns about locating parking in that area, including economic reasons, access and site visibility. Mr. Tingey stated that the applicant is proposing to locate all parking on the south portion of the property where there will be a landscape buffer and retention of an existing fence. Mr. Tingey stated that staff believes there are safety issues with locating the parking in the northwest area of the property, and there is only enough space for 8 parking spots so there would need to be more parking in other areas. Mr. Tingey stated that the proposed landscape buffer that is being proposed by the applicant is not a requirement in this zone. Staff is recommending a modified condition that states that the additional required parking stalls shall be located at the area south of the building and will meet parking regulations with paving and striping of the lot, that there will be a minimum 10 foot landscape buffer at the south, and that a sight obscuring fence will be maintained. Staff is recommending approval of this modified condition.

Patricia Johnson, 404 East 5600 South, is the owner of this property. Ms. Johnson stated that the plan explained by Mr. Tingey seems to be the best use of the property, and she already has a contract with Midgley Construction Company to make these changes. Ms. Johnson stated that this modification seems to be the safest layout for those entering and exiting the parking lot.

Jeff Evans opened the meeting to allow for public comment.

Kevin Billings, 5670 South Crown Point Drive, Murray, indicated he is the adjacent property owner. Mr. Billings stated that this issue was thoroughly discussed two and a half years ago. Mr. Billings stated that at that time the Planning Commission listened to very contentious arguments and agreed to put the parking in the northwest corner, where there could be adequate patrolling by police. Mr. Billings stated that this is the biggest concern for people in the neighborhood as they have concerns about what is taking place at this property. Mr. Billings stated that the planning and zoning department of Murray City hasn't followed through on enforcing what was decided two years ago, and stated that the owners of Legacy Retirement Inn are only doing what prudent business owners would do in this situation. Mr. Billings stated that nothing about the property has changed, and the neighbors do not want the parking in the proposed area because of security problems. Other apartments in Murray have parking located near the building so that it is possible to self-police who is coming and going. By having the parking removed it will be difficult to self-police, and the proposed area is set back in a cove. Mr. Billings stated that he can see this area from his house and has witnessed drug activity there, resulting in him calling the police. Mr. Billings stated that he has yelled over his fence and told drug users to leave, which he believes resulted in his dog ingesting something toxic that was put in his yard. Mr. Billings stated that the parking needs to be located in the northwest corner where it belongs and where it was originally supposed to be. Mr. Billings stated that the City should allow any changes.

Leslie Komatsu, 5678 South Crown Point Drive, Murray, stated that she has talked to the owners of Legacy Retirement Inn about fights and domestic violence situations that have occurred on their property. Ms. Komatsu stated that her neighborhood has usually been very peaceful, but within the past three months her car has been broken into three times, and when she reported the activity to police she was told that this is drug addiction behavior. Ms. Komatsu stated that there is a lot of noise where the parking is located near the residential area and she would like to see signs posted that remind people to be quiet after ten o'clock at night. Ms. Komatsu stated that by moving the parking they would be able to maintain their peaceful neighborhood and avoid confrontations.

Barry Espil, 5686 Crown Point Drive, Murray, stated that the activity discussed by other neighbors has been taking place. Mr. Espil stated that this behavior is the result of changing the use from a retirement facility to an apartment complex. Mr. Espil stated that there are currently 56 available parking spots, and when he drove past the property tonight there were 17 empty spaces. He drives past the property every morning and night and has never seen the parking lot full. Mr. Espil stated that if the applicant wants to add 20 more parking spots, they may want to add 20 more apartment units. He questions the need for more parking. Mr. Espil stated that there is adequate space in the northwest corner for parking, and there wouldn't be a need for very much demolition.

Mr. Espil stated that he has a swimming pool and covered patio in his yard and enjoys entertaining in his yard. Mr. Espil stated that putting a parking lot near his property would interfere with his privacy, and will reduce the value of his home. Mr. Espil would like the Planning Commission to enforce what was decided a few years ago.

Jim Harland stated that the site requires 87 parking stalls. Jeff Evans stated that the Planning Commission is bound by land use laws, and if a certain use is allowed they will move forward with that unless an argument is made that would hold up in court. Mr. Evans stated that according to City statutes, apartments are required to have a certain number of parking spaces for each rentable unit. Based on staff reports and review of the site, that number of parking spaces cannot be achieved if they are only located on the north end.

Jeff Evans stated that Mr. Tingey has contacted the Murray City Police Department to discuss the type of issues going on in this area. Mr. Evans asked Mr. Tingey to update the public on those issues, although they are separate issues from the one being decided at this meeting. Mr. Tingey stated that he spoke with the police department and they are aware of concerns. He stated the police have not been able to catch a lot of crime at the site, but that doesn't mean it doesn't occur, and there have not been a significant amount of calls over the past several months.

Sheri Van Bibber asked about the limit of 8 parking stalls at the north-west corner per the engineer hired by the applicant due to the ingress/egress. Mr. Tingey responded that the city engineers have looked at the site, and there might be a possibility to determine if they can get more parking stalls. He stated that he believes the applicants would not be able to have 24 parking stalls at this location because there are more issues than just parking, it also involves access to the parking and area required for proper backing aisle space. It is a requirement of the law that the applicants cannot have a minimum of 56 parking stalls and must provide the additional parking stalls to meet code.

Sheri Van Bibber stated that she drives by this property everyday and the parking has never been full, but the additional parking stalls must be provided to meet code, but that no one will use the additional parking stalls on the hill because it is inconvenient.

Tim Tingey stated that there are setback requirements for the parking area that limit the available space. Mr. Tingey responded a 10 foot depth of frontage landscaping is required which reduces the space for parking. He stated that the city engineer has reviewed the proposed parking layout for drainage and code and also involves the relocation of the utilities and storm drain issues.

Pat Johnson stated that the residents of Legacy also have complaints, one of which was an air conditioning unit onto the rear of the complex that was broke and had been running very loudly. She stated that her business has talked with the neighbors in regards to their concerns and they have their own crime watch program. Everything that the adjacent neighbors have addressed, have been addressed by Legacy Retirement management. She stated the parking lot behind is much more secure than out on the street where it is covered by trees. She stated that they do not particularly desire to have extra parking, but it is required by the city code and is an added expense to her

business and they preferred the green space. She stated that she has had two sets of plans prepared for the parking, one of which had the 8 stalls located toward the front because of the drainage issues in the front of the property. She stated the additional parking is not the best use of the property and is costly but the only location possible for the additional parking is to the rear of the property. Ms. Johnson stated that the Inn changed their type of tenants to allow for ages 55 and older. She stated that there were affordable housing tenants and Legacy was told by the Affordable Housing Authority that they had the right to live there and along with that change came the extra expense of the parking. She stated the parking has always been in the back and was there for many years and the building was the Cottonwood Maternity Hospital which existed prior to the adjacent neighborhood being developed. She stated all the entrance into the property is on the east side and they have their own neighborhood watch/security program in addition to the Murray Police that patrol the area.

Sheri Van Bibber commented that when the use was a retirement center the required number of parking stalls was only 56 stalls.

Jeff Evans stated if the public wishes to comment further on this item, that the city is open to suggestions for possible modifications to the site plan but must still meet the city requirements.

Barry Espil, 5686 Crown Pointe Drive, asked who owns the land to the west. Pat Johnson responded that she and a partner own the property. Mr. Espil suggested that the parking be located to the west if Ms. Johnson also owns that property.

Kevin Billings, 5670 Crown Pointe Drive, suggested other locations for the parking stalls and expressed concern with the proposed location. He suggested a gate or revising the road location. Mr. Billings stated he is an industrial engineer and asked what kind of engineers have looked at the site. Mr. Taylor responded that Dominion Engineering is a reputable civil engineering firm and the city engineers are also very qualified in site plan design and city codes. He stated that there have been two sets of engineers that have reviewed the plans and they have determined that 8 stalls is the maximum that could be accommodated. The intent of the original condition was that "The parking would be satisfied to the maximum extent as possible in the north-west corner of the property and any remaining parking stalls would then be disbursed as specified and agreed upon by the planning staff". The intent was that the desire is to have as much of the parking in the north-west portion of the property unless there is some compelling reason not to. He explained that a compelling reason would be several engineer's analysis indicated that it is not feasible from an engineering perspective to do so and this is not even considering financial costs. Mr. Tingey stated that the city's engineering has indicated that the parking could be located there, but there are a number of issues that would have to be addressed such as drainage, utility issues, etc.

Jim Harland stated that Mr. Billings has suggested having some type of a security gate and a number of the concerns expressed have been in regards to security. He asked if an additional condition could be required to install a gate to provide better security. Ms. Van Bibber responded that the Fire Department may have concerns about a security gate. Mr. Tingey commented that the planning commission may impose additional conditions for approval that address the concerns.

Pat Johnson commented that if a security gate is across the parking, it would eliminate those parking stalls for people and would restrict the fire department access and garbage collection. She stated that there have been no arrests for drugs deals and she is in this building every day and many evenings and she has never been felt unsafe. She stated that there are misconceptions that when persons are outside smoking, that they are doing dope.

Pat Johnson stated she has had three separate engineering plans drawn for this property. The eight parking stalls at the top of the property were suggested by Dominion Engineering and this would also allow for proper lighting. There are drainage issues and property line issues that complicate the layout of the parking stalls.

Leslie Komatsu, resident, stated that there are a lot of assumptions being made. She stated that there has not been an independent engineering survey for this other area and the applicant has paid for their own three engineers. She stated that over two years ago the commission voted to approve the parking plan and that should still stand. She stated that this project can wait until there is another study completed for different parking options.

Jeff Evans stated that regardless of the vote two years ago, the planning commission is bound by land use law and if there is anyone that can cite a reason to deny this request based on such law then that would be considered.

Kevin Billings asked that an independent engineer conduct a survey as suggested by Ms. Komatsu. He asked the time limitation for making a decision for this application and does a decision need to be made tonight or can the decision be delayed.

Tim Tingey responded that the issue is can the parking stalls be located at the north-west area. He indicated that "yes" the parking can be located in the north-west portion of the property, but not all the parking could be located in the north-west portion due to the landscaping requirements, setbacks, proper aisle width, etc. The city has indicated that parking can be located in the north-west portion of the property, but a limited number. He stated the planning commission has authority to mitigate affects on property owners and can decide to allow the parking in the north-west area of the property. The bottom line is that all the parking will not be able to be accommodated in the north-west portion of the property and a number of the stalls will need to be located elsewhere. He stated the city does not need to reevaluate the request because the city has already done so.

Jeff Evans asked about the possibility of staff monitoring the parking in the north-west portion of the property. Ms. Johnson responded that there is no one over on this section of the building and does not have apartments. She stated all the apartments are located at the existing parking location. She stated they have tried to keep the entrances open so that it is monitored and they have provided security cameras in the lobby's and on the floors that monitor pedestrian traffic. At night the doors are locked and there is no access and there isn't enough space to drive between the building and the fence line. The proposed parking location is the best location for security. She stated that the parking will happen whether the she or the residents like it or not because it is required per city code.

Jim Harland asked Ms. Johnson if there has been discussion regarding the combining of the parking lot so as to accommodate it further to the north and away from the property line. Ms. Johnson responded that is not possible because of the drainage and the building location.

Jim Harland asked about adding trees in the area south of the proposed parking lot. Ms. Johnson responded that there are trees and a solid 6 foot fence across the back. She stated that they are proposing to install additional landscaping to help as a buffer.

Mary Ellis Ball, 5686 Crown Pointe Drive, asked about the landscaping across the south boundary line. She stated that none of residents live along the south boundary line and asked about additional landscaping along the resident's boundary lines.

Greg Johnson, 4610 South 700 East, stated that he is a co-owner of Legacy Retirement. He stated they cannot install landscaping in the area requested by Ms. Ball because there are easements and manholes and they must maintain an open easement in this area and they cannot plant trees or block the easement. Mr. Tingey stated that the applicant has indicated that Murray City has some wells at this portion of the property, but that he does not have any details of this situation.

Karen Daniels suggested that the commission add a condition for additional landscaping along the south and east boundary lines to provide additional buffer as long, as it does not interfere with the easement. Tim Taylor commented that the applicants are already exceeding the minimum 10 foot buffer landscaping requirement per code.

Jim Harland made a motion to amend the Conditional Use Permit for Legacy Retirement Inn at 404 East 5600 South, subject to the following modification of the original condition #3:

3. The additional parking stalls shall be located at the area south of the building (as depicted in the plans) to meet the parking regulations with paving and striping of the lot and provide a minimum 10 foot landscape buffer at the south of the parking lot and the buffer to be extended to the east to meet the approval of the City Forester. Maintain a sight obscuring fence adjacent to the residential lots.

Seconded by Karen Daniels.

Call vote recorded by Tim Tingey.

A Karen Daniels
A Sheri Van Bibber
A Jim Harland
A Jeff Evans
A Tim Taylor
A Ray Black

Motion passed, 6-0.

LIFE CENTER MEDICAL–942 East 5600 South, Project #09-75

Brett Ehlers was the applicant present to represent this request. Chad Wilkinson reviewed the location and request for a Conditional Use Permit for a medical office building located at 942 East 5600 South which is located within the C-D (commercial) zone. The applicant proposes a change of use from an engineer's office to physician's office. The subject property was originally constructed in Salt Lake County and was subsequently annexed into Murray City in 1999. The zoning ordinance requires that properties be brought into compliance with code standards at the time of conditional use permit approval. The subject property is currently nonconforming in relation to buffering requirements. The ordinance requires the construction of a six-foot high masonry wall whenever commercial sites abut residentially zoned properties. The applicant was granted a variance on September 14, 2009 for the south property line based on the existence of the Murray City well and pump house facility to the south. The required wall will be a condition of approval for the development with exception of the south boundary line as granted by the Board of Adjustment. The existing on-site trash container will be required to be screened in accordance with code requirements. Based on the information presented in this report, applications materials, and the site review, the staff recommends approval subject to conditions.

Brett Ehlers, 1804 East Lincoln Lane, stated he is the owner of Life Center Medical. Mr. Ehlers stated that he has reviewed the staff recommendations and will comply. He asked if the commission could grant a fence variance. Mr. Evans responded that the planning commission does not have authority to grant variances. Mr. Tingey indicated that Mr. Ehlers could appeal the decision of the Board of Adjustment through the court system if he is not satisfied with the results of his variance request.

Ray Black asked Mr. Ehlers if he is a physician. Mr. Ehlers responded that he is not a physician, and is merely the owner of the business and employs doctors and staff.

Richard Gomez, 927 East 5600 South, indicated he is the resident to the west. Mr. Gomez stated that he and the current property owner worked diligently to install a very nice cedar fence with footings and cooperated very well with each other. He asked why the cinder block wall is a better deterrent than the existing cedar fence. He stated that kids easily climb the existing six foot solid wall adjacent to the Red Hanger Dry Cleaners, but they cannot climb the cedar fence. He expressed concern that the existing cedar fence is a better situation than a solid block wall would be and is better for the environment. He asked for reconsideration of the fence requirement adjacent to his property and asked that the cedar fence remain.

Mr. Evans asked Mr. Gomez if he voiced his opinion at the Board of Adjustment meeting on September 14, 2009. Mr. Gomez responded that he was not able to attend that meeting. Mr. Evans explained that the planning commission does not have authority to grant variances or waive the city requirements and the Board of Adjustment is the only body that may do so. Mr. Gomez asked if extra care would be taken to protect the existing landscaping. Mr. Evans responded that the contractor would be responsible for installation of the new wall.

Jim Harland stated that condition #3 could be modified to encourage extra care during the installation of the wall to preserve the existing landscaping. Chad Wilkinson stated that the language could be added to condition #3, but it will ultimately be up to the property owner to monitor his contractor during the construction of the wall. There is no required landscaping in this area. Ray Black stated that his experience has been that the contractor be monitored during the construction phase to ensure any possibility of preserving the landscaping.

Paul McGill, 633 Free Land Avenue, Midvale, stated he is co-owner of the property. He stated that he has been conducting business in Murray for the past 25 years. He asked the difference between the requirement for a masonry wall and the existing fence that blends well and was part of the idea for this type of a transitional property years ago. Mr. Evans responded that the commission would be happy to make that change if the commission could make that change, but the authority for a variance lies only with the Board of Adjustment.

Chad Wilkinson commented that the appeal authority is the Board of Adjustment and the applicants have already been to the Board of Adjustment. The only appeal process available at this time is through the court system. He stated the code requirement for a solid masonry wall has been on the books for a long time even back through the 1980's. The solid wall does provide some sound attenuation, good security and a buffer for lighting. He explained that the variance granted was to allow them to keep the vinyl fence along the south property line. The cedar wooden fence was considered and discussed at the Board of Adjustment meeting, but the variance was denied at this particular location.

Mr. McGill responded that the city was kind enough to allow themselves a fence variance along the south boundary line which is adjacent to the city well and pump station and there was no consideration for the other adjacent property owners. Mr. Wilkinson responded the code requirement for the solid masonry wall is specific to the zoning wherein commercial zoning abuts residential zoning and is not because of the use. He stated that the pump house is a permitted use in the residential zone.

Ray Black made a motion to grant a Conditional Use Permit for Life Center Medical at 942 East 5600 South, subject to the following conditions:

1. Provide stamped and sealed plans by appropriate design professionals for building department review.
2. The project shall meet all applicable building code standards.
3. Revise the plan to show installation of a six-foot high masonry wall where the site abuts residentially zoned property or obtain approval of a variance for this standard.
4. Revise the disabled person parking space to meet the required van accessible dimension consisting of an 8 foot space with an accompanying 8 foot wide unloading aisle.

5. The trash container shall be screened as required by Section 17.76.170.

Seconded by Karen Daniels.

Mr. Wilkinson explained that masonry wall may consist of several different materials such as cinder block, post and panel construction, brick, rock, etc.

Call vote recorded by Tim Tingey.

A Karen Daniels
A Sheri Van Bibber
A Jim Harland
A Jeff Evans
A Tim Taylor
A Ray Black

Motion passed, 6-0.

OTHER BUSINESS/DISCUSSION ITEM

There were no other business items for discussion.

Meeting adjourned.

B. Tim Tingey
Director of Community & Economic Development